

**WHITTIER CITY COUNCIL
WILL HOLD
A REGULAR MEETING
TUESDAY, SEPTEMBER 19, 2017
AT 7:00 PM
COUNCIL CHAMBERS
P-12 BUILDING**

AGENDA

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THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 427-2327 • Fax (907) 472-2404

**WHITTIER CITY COUNCIL
REGULAR MEETING
TUESDAY, AUGUST 22, 2017
7:00 PM
COUNCIL CHAMBERS
P-12 BUILDING**

MINUTES

1. CALL TO ORDER

Mayor Daniel Blair called the meeting to order at 7:18 p.m.

2. OPENING CEREMONY

Mayor Daniel Blair led the Pledge of Allegiance.

3. ROLL CALL

A. Council members present and establishing a quorum: Monty Irvin, Debra Hicks, Dave Pinguoch, Dave Dickason, Peter Denmark, Victor Shen (telephonic) and Daniel Blair.

B. Council Members Absent:

C. Administration Present:

Mark Lynch, City Manager

Kyle Sinclair, Harbormaster

Naelene Matsumiya, Acting City Clerk

Terry Morrison, Public Safety Bldg. Manager

Scott Korbe, Public Works Director

Holly Wells, City Attorney

Others Present: William Earnhart, Emmit Raymond, Mark Hager, Cody Beauchamp, Terry Bender, Dave Goldstein, Greg Clifford, Ken Hunt, John Campabello, Ted Spencer, Mike Bender, Todd Perez,
IRT Group: (248th CEF) Lt. Col Paul Waite, Lt. Col Bill Wilkinson, Capt. Christopher Isbell, Capt. Kevin Young, SM Sgt. Mike Nazelrod (231st CEF) Capt. Jacob Colbert, Capt. Marshal Davis, Lt. Joe Willis

4. APPROVAL OF MINUTES

MOTION: Dave Dickason made a motion to approve the meeting minutes of April 18, 2017 as is.

SECOND: Dave Pinguoch

DISCUSSION: None

VOTE: Motion passed unanimously

5. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Dave Pinguoch made a motion to approve the Regular Meeting Agenda with the following changes: First, Agenda Item 12 – Presentations should be moved to Agenda Item 5A. Second, eliminate the Public Reading and Second Reading of ordinance #03-2017. Third, to move the Executive Session Part C. Property Description Amendment on the Harbor Triangle Leases to 14.

SECOND: Monty Irvin

DISCUSSION: None

VOTE: Motion passed unanimously

6. PRESENTATIONS

Captain Miles Sheppard, et al – Initial IRT Engineering Study Report

Colonel Paul Waite of the Innovative Readiness Training Program group distributed packets to the Council before the presentation. He explained that he and his group were doing assessments on the Buckner Building as well as the P-12 Building. He informed the Council that there was a team before who have also worked in collecting data from the Buckner Building. He introduced the members who are helping him with this project. Colonel Waite began the presentation and Council followed along in their packets. For the P-12 Building, the team is still in early development of building's assessment, but he commented that they have the full set of plans so more evaluation will be done in the future for the P-12 building. Colonel Waite then began to explain his findings in the Buckner Building. He gave a brief history on the Buckner Building and the materials that were used to build it. He addressed how the building had suffered severe neglect from its prior private ownership and from the natural elements as it is exposed. Because of this, water has been coming into the building for decades and seeping through the ceilings that stalactites made from calcium hydroxide have formed. The shooting range was abandoned and the lead bullets were never cleaned up and he believes it should be covered for many reasons. The rebar inside the beams that were once used to reinforce the concrete have now started to rust; therefore, they are expanding and creating cracks in various places in the building weakening the structure. The drains on the roof of the building are clogged so it retains water causing it to seep into the concrete and leak through it as well. The team is looking for future funding to test the building for hazardous materials such as PCB's, lead paint, asbestos and so on. He commented that these hazardous materials have been visually identified, but have not yet been tested in a laboratory for validation. Colonel Waite pointed out a chart in the packet that numerically rates the integrity of the building and its conditions and went on to talk about different courses of action. Ultimately, the structure is deteriorating and he believes it is critical to have the remediating done before the building becomes structurally unsafe. He briefly talked about the possibilities of renovation before Colonel Waite opened the floor for questions. Dan Blair, Mayor of the City of Whittier, asked about the shooting range and since it was left intact, he wondered if

the dry-cleaning area was also left intact as well. Colonel Waite replied that it possibly could still be intact, but he has not yet discussed it yet with the program manager. He believes that there could be some residue from chemicals that were not properly cleaned up or disposed and that the dry-cleaning area is going to be added into the program because of this specific contamination. Mayor Blair was satisfied with his answer. Councilman Irvin asked if the concrete can be used as a foundation of a breakwater. Colonel Waite said that using it as a breakwater foundation was their initial thought, but the steel rebars in the concrete may raise some red flags, especially when placing it into the ocean. He explained that the concrete can definitely be used, but ultimately the steel may need to be removed beforehand. The City Manager explained that whenever new pilings are installed into the harbor, has to be coded because you cannot put raw steel into salt water. He expressed that the Army Corps. Of Engineers would not allow the use of the concrete in the water if it still had remnants of steel in it. He clarified that he wasn't 100% about this, but he just wanted to clarify for the Council. Paul Waite said that the concrete could also be crushed and used in other ways such as structural material for buildings or can be collected for future use. Mr. Irvin said that since it can be recycled and reused for structural purposes, there must not be asbestos in the concrete. Colonel Waite replied that the only way to get asbestos in the concrete is if you don't take out the materials that contain asbestos before demolition and let it infuse with the rubble. The City Manager thanked Colonel Paul Waite and his team for all the work they have done in assessing these buildings. He also acknowledged Dave Goldstein for introducing him to the group and concluded by saying he is looking forward to working with the IRT group in the future.

7. MAYOR'S REPORT

A. Mayor's Report by Mayor Daniel Blair

Mayor Blair reported that it has been a very busy month and mentioned the potential historic opportunities in Whittier. He acknowledged the Park and Recreation Committee for their work on the Emerald Cove trail. He stated that Mark Donahue has been writing a lot of positive articles about the City and began naming important aspects of Whittier that are going to positively affect the community such as the fact that Whittier has the best water in the state of Alaska and the Del Long Dock is in the process of Whittier's possession. He researched heavily by reading Council Minutes from the past to get a better understanding of what he will be expecting in the future.

B. Vice Mayor Report by Vice Mayor Dave Pinguoch

None

8. MANAGER'S REPORT

A. City Manager's Report- Mark Lynch

See written report in Original Council Packet

• Financial Report

None

B. City Attorney's Report

None

C. School District Report

See Written Report in Original Packet

D. Director's Reports

None

2. Public Safety Report- Dave Schofield

None

3. Public Works Report- Scott Korbe

None

4. Public Safety Building Report

Item was discussed during executive session.

9. COMMISSION/COMMITTEE REPORTS

A. Planning Commission

No report.

B. Port & Harbor Commission

No report.

C. Parks & Recreation Committee

Councilman Dickason presented his memo that discussed updates on the many projects that the Parks and Recreation Committee has been working on this summer. He described the Whittier Creek Trail. He stated that Volunteer days in August were beyond successful and he continued to talk about the progress on projects that he and Councilman Shen are currently working on. He mentioned the grant from the National Parks Service and the meeting that will "kick-off" the grant.

D. Prince William Sound Aquaculture Corp.

None

E. Regional Citizen's Advisory Council

Mike Bender of Lazy Otter Charters announced that the Regional Citizen's Advisory Council will be meeting on the 14th and 15th of September. He stated that there is a community outreach program the evening before at the school. He mentioned that these meetings are open to the public and the meeting will be held at the Inn at Whittier.

10. CITIZENS COMMENTS ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

None

11. PRESENTATIONS

Item was moved to 6.

12. CONSENT CALENDAR

None

13. ORDINANCES (Non-Ordinance)

A. Introduction (2nd reading)

1. #04-2017 – An Ordinance Amending WMC 2.12.130 Entitled "Prohibited Acts" To Remove Specific Examples of Prohibited Acts While Preserving The Prohibition Against City Official's Participation In Official Action In Which He or She Has A Substantial Financial Interest

MOTION: David Pinquoch made a motion to introduce Ordinance #04-2017 and set the Public Hearing at the next scheduled meeting on September 19, 2017.

SECOND: Dave Dickason

DISCUSSION: City Attorney, Holly Wells stated that the community is very close-knit and the code is written in a way that is very vague as to what you can and cannot do. She continued by saying, "Many codes would say *Council cannot have a substantial financial interest in something without disclosing or stating the participation*, then it will have a definition that will state *the substantial financial interest is anything exceeding anything \$5,000*. What it currently states in the code is "You will not have a direct or indirect financial interest (no definition) in anything that you will act on without disclosing it." She can see where the confusion is in the code with the wording, but believes it is a little too strict given the size of the community. She urged Council Members to take another look at it and think about what they want so that there aren't anymore *unintelligible* relations. She stated that the reason for the changes was to just draw some attention to it so that it can be addressed at this meeting because a lot of participation is needed to determine the finalization of this ordinance. Mayor Blair clarified that he was consulting in some software and computer work at the Whittier Seafoods company and he asked the City Manager and the City Attorney if he had any conflict of interest and Ms. Wells informed that, although he did not violate any codes, he is still at risk for a potential violation. Peter Denmark asked if the ordinance has been gutted. Ms. Wells replied that what needs to be done is to set an amount, but that decision was up to the Council. Councilman Shen asked what a good amount was. Ms. Wells answered that she sees \$5,000 a lot in these codes in other places and said that she can look at the States ethics and follow that. She indicated that the goal was to avoid corruption and that this is where Whittier differs from a lot of the other communities. She explained further. Mayor Blair stated that in his reading, he sees that a conflict of interest code was important for the City to have, but it just needs some cleaning up to be effective. Councilman Denmark expressed that his concern was that the Attorney is asking for a rewrite of the Conflict of Interest ordinance but given a small time-frame of 4 weeks to have it done. He said that usually the legal administration has specific ideas on how to reconstitute the ordinance with appropriate language that would be included in the reading so that it has some substance to consider. Mayor Blair answered that the best thing to do is to have the administration bring the document with the suggestions to the Council next month for the first reading. Council Agreed.

VOTE: Motion failed.

14. EXECUTIVE SESSION A

A. Property Description Amendments on the Harbor Triangle Leases– Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310 (1)

MOTION: David Pinguoch made a motion to enter executive session regarding Property Description Amendments on the Harbor Triangle Leases that immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion passed unanimously

Council entered into Executive Session at 8:22 pm

MOTION: David Pinguoch made a motion to end the executive session and return to the regular meeting at 9:09 pm.

SECOND: Monty Irvin

DISCUSSION: None

VOTE: Motion passed unanimously

Council ended Executive Session and returned to the Regular Meeting at 9:09 pm.

15. RESOLUTIONS

a. #13-2017 – A resolution on the Alaska Congressional Delegation to support continuation and full funding for rural community and economic development programs.

MOTION: Dave Pinguoch made a motion to adopt resolution #13-2017

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion passed unanimously

b. #14-2017 – A resolution authorizing the City Manager to submit a tier 2 Harbor Facilities Grant to the Alaska Department of Transportation and Public Facilities to complete replacement of Harbor Docks and Pilings

MOTION: Dave Pinguoch made a motion to amend Resolution #14-2017 to include 2 additional statements after the second line to add *Whereas the City of Whittier has successfully executed and completed two previous Harbor Facility Grants* and *Whereas this Harbor Facility Grant will complete the renovation of all floats, fingers and associated pilings in the Whittier Small Boat Harbor.*

SECOND: Dave Dickason
DISCUSSION: None
VOTE: Motion passed unanimously

MOTION: Dave Pinquoch made a motion to adopt resolution #14-2017

SECOND: Dave Dickason

DISCUSSION: The City Manager stated that the State started out Phase 1, which was the sheet pile on the west end. Phase 2 was the sheet pile on the east end which never got completed. Phase 3 was the \$4,000,000 harbor project, Phase 4 was the one that was recently completed and this will be Phase 5 to them.

VOTE: Motion passed unanimously

c. #15-2017 – A resolution requesting FY 18 PILT funding

MOTION: Dave Pinquoch made a motion to adopt resolution #15-2017

SECOND: Peter Denmark

DISCUSSION: None

VOTE: Motion passed unanimously

d. #16-2017 – A resolution of the City of Whittier, Alaska Approving the Property Description Revisions in the Lease Agreement Between Café Orca & Gallery and the City of Whittier

MOTION: Dave Pinquoch made a motion to adopt resolution #16-2017

SECOND: Monty Irvin

DISCUSSION: Councilman Denmark asked if the City Attorney could give Mr. Campabello a layout on the situation. Ms. Wells obliged. She stated that the goal was to get a property description that is as close, accurate and compliant as it can be with the City code requirements and the actual lay of the land. She said the area in which the Café Orca deck is located goes into a setback as well as the building itself. She wanted to provide permission where the deck is so that business for Mr. Campabello could continue to operate business as usual, at the same time insure the City has access and the ability to maintain the area.

VOTE: Motion passed unanimously

e. #17-2017 – A resolution of the City Council of the City of Whittier, Alaska Authorizing the Amendment of the Lease Agreement Between Café Orca & Gallery and the City of Whittier Assigning the Lease to Janet Amor

Mr. Campabello informed the Council that Ms. Amor will no longer be part of the transfer adding, "She had cold feet." A motion was not made for this resolution, nor was there a vote.

f. #18-2017 – A resolution appropriating \$22,982 from the City's Cruise Passage Vessel fund for design and engineering of a new City Park

MOTION: Peter Denmark made a motion to adopt resolution #18-2017

SECOND: Dave Pinquoch

DISCUSSION: Councilman Denmark asked if it was enough. Councilman Dickason clarified that this was just for the design based on the proposal from CRW and he believes it is a good deal. He said that this will also help the National Parks Service by providing the documents that they need to review before they give

the City the grant. Councilmen Shen and Dickason took turns explaining the process in turning this park into an official City Park. They want this park to be professionally done and with as much help from the community as possible. Councilman Denmark acknowledged Mr. Dickason and Mr. Shen for all the hard work they put into this project.

VOTE: Motion passed unanimously

g. #19-2017 – A resolution accepting approximately \$14,000 in funds from the Whittier Emergency Response and Fire Association

MOTION: Dave Dickason made a motion to adopt resolution #19-2017

SECOND: Dave Pinquoch

DISCUSSION: The City Manager summarized the discussion about this from the last meeting saying that the money was going to the Public Safety Department for the ambulances and for a CPR Compression Machine and then a separate donation will be made at the end of the year to the school. Council discussed this further.

VOTE: Motion passed unanimously

Council recessed at 9:31 pm

Council returned at 9:45 pm

Before the Council discussed the items on the Agenda, Mayor Blair wanted to disclose his work with the Whittier Seafoods Company.

MOTION: David Pinquoch made a motion to find that the Mayor has a financial interest in a firm, cooperation, association or enterprise that does business with the City that may be interested in purchasing the P-12 Building and prevent him to participate in the Executive Session where no action will be taken so long as he does not influence or attempt to influence the selection of a private business with the named entity or any other entity that he may have a financial interest in.

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion Passed Unanimously

Naelene Matsumiya accidentally counted The Mayor's vote. Dan Blair retracted his vote at 10:00 pm

16. EXECUTIVE SESSION B

A. Public Safety Building Change Orders – Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310 (1)

B. Potential sale/trade/purchase of real estate – Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310 (1)

MOTION: Dave Pinquoch made a motion to enter executive session to discuss

A. Public Safety Building Change Orders – Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310 (1)

B. Potential sale/trade/purchase of real estate – Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity. AS 44.62.310 (1)

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion passed unanimously

Council entered into Executive Session at 10:03 pm

MOTION: David Pinquoch made a motion to end the executive session and return to the regular meeting at 10:47 pm.

SECOND: Monty Irvin

DISCUSSION: None

VOTE: Motion passed unanimously

Council ended Executive Session and returned to the regular meeting at 10:47 pm

17. UNFINISHED BUSINESS

A. Lease Transfer Update/Orca Café

Nothing new to report.

B. Shotgun Cove Road Project

Nothing new to report.

C. ARRC/COW Land Swap

Nothing new to report.

D. Improve Salmon Sport Fishing in in Northwest PWS

Nothing new to report.

E. Paddle Craft Launch

Nothing new to report.

18. NEW BUSINESS

A. Action Resulting from the PS Building Executive Session

MOTION: Dave Pinquoch made a motion to authorize the City Manager to make a payment of \$15,000 to Lawrence Peek Architects to continue their progress on the Public Safety Building

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion passed with Council Members Pinquoch, Dickason, Hicks, Shen and Irvin voting in favor and Councilman Denmark voting against.

MOTION: Dave Pinquoch made a motion to Authorize the City Manager to pay a lump sum of no more than \$89,000 to SR Bales

SECOND: Dave Dickason

DISCUSSION: None

VOTE: Motion passed unanimously

19. COUNCIL DISCUSSION

Council discussed storage spaces for Whittier Seafoods for the winter season. Mayor Blair stated that they are looking to increase their capacity from 300,000 lbs. of fish processing per day to 800,000. Councilman Denmark asked, "What are we charging them?" Mr. Lynch replied that they are paying 50 cents per square foot in the egg house. Councilman Shen asked why the City had to provide storage space for them. Councilman Pinquoch told Mr. Shen, "My question back to that is why not?" Councilman Denmark asked Councilman Shen if this was affecting the Anchor Inn businesses in that area. Victor Shen answered that that they have not been here long enough for him to notice any changes. Council discussed this for some time. Mayor Blair stated that there is no hurry to resolve this issue.

20. CITIZEN'S DISCUSSION

None

21. COUNCIL AND ADMINISTRATION'S RESPONSE TO CITIZEN'S COMMENTS

None

22. ADJOURNMENT

All were in favor of adjourning the meeting at 11:02 p.m.

ATTEST:

Naelene Matsumiya

Acting City Clerk

Daniel Blair

Mayor



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

To: Mayor and Council
From: Mark Lynch, City Manager
Subject: Manager's report
Date: September 15, 2017 (for 9/19/17 Council meeting)

ARRC/DeLong Dock: The essential terms have been submitted and ARRC is working on a draft for a transfer of the Dock to the City.

Engineering: CRW Engineers is working on the City Park design and engineering, and the next phase of Shotgun Cove Road.

Mechanic/Equipment: I plan to bring the Mechanic/Equipment operator back as a temp for 6 months. Work would be to continue work on Police equipment, cleanup along Shotgun Cove road and work on the levee if weather allows and permitting is in place. Additionally, he would help with moving public works to the new building and getting surplus items sorted and ready to sell.

Sale of City Surplus: The City is set up to use aksurplus.com to auction surplus city equipment. Lots are beginning to be organized and will be posted to the website soon.

Personnel: Annie Reeves started as Assistant City Manager on September 5th. I am still accepting applicants for City Clerk and have hired an experienced retired City Clerk to help the City through the process of the upcoming elections. John Janik started as Finance Officer on August 28.

Harbor Docks and Fingers: The grant application for the next phase of the Harbor project has been submitted.

Harbor Loan: The latest word is that we are approved at some level. They need more information and will work with Kyle to complete the loan process. Based on the PS Building loan timeline so far, it is likely to be a very long process.

Triangle Lease Issues: Holly will update Council during her report.

IRT (Innovative Readiness Training): The IRT team completed their onsite work for the Buckner and the P12 buildings, and I expect final reports in the near future.

Tankfarm Property: No additional news from the Corps yet.

Public Safety Building: Progress can be monitored by going to the Whittier Alaska homepage and scrolling down to the link for the Public Safety Building.

PS Building Water/Sewer Loan: All pre-application materials have been approved. We are now in the formal application process and have been told we are the next in line for the loan people to do their financial review. We are still waiting for the loan agency to finish the next steps.



Whittier Community School

PO Box 638
Whittier, AK 99693
(907) 472-2575 Phone
(907) 472 -2409 Fax

To: Whittier City Council and City Manager
From: Lindsey Erk
Date: September 8, 2017

Recent Events:

- BBAHC Health Ed. Department - anti-tobacco education visit
- Back to School Night and EAC Meeting
- Prince William Sound Regional Citizen's Advisory Council (PWS RCAC) visit
- Alaska Railroad Spencer Glacier train trip

Upcoming Events:

- No School – September 21-22, 2017 – teacher in-service, math training
- Educational Advisory Committee Meeting – October 12, 2017 - 7:00pm BTI Homeowners Lounge – please come join us and take an active role in the school
- Wiffle ball Games & Food – October 19, 2017 – Food starting at 5:30pm, games start at 6:00pm
- End of 1st Quarter – October 20, 2017
- Halloween Carnival – October 31, 2017

Voyage School Opportunities:

One great opportunity that students from Chugach School District and our partner districts from around the state have is the option to attend a phase at Voyage School, our variable term residential school located in Anchorage. Students from middle and high school have a chance to attend the Voyage School anywhere from 4-30 days throughout the year. This program helps provide basic interpersonal skills, social skills, career exploration, job shadowing, outdoor leadership skills, and urban living skills along with many more great experiences. We encourage all students to attend these phases whenever possible. It is a great opportunity to see what is available to them after high school.



<i>Whittier Community School</i> (907) 472-2575	<i>Tatitlek Community School</i> (907) 325-2252	<i>Chenega Bay Community School</i> (907) 573-5123
<i>Valdez FOCUS Homeschool</i> (907) 835-5528	<i>Anchorage FOCUS Homeschool</i> (907) 522-7400	<i>Fairbanks FOCUS Homeschool</i> (907) 457-2545
		<i>Voyage to Excellence</i> (907) 222-2712



September 14, 2017

From: Harbormaster
To: City Manager

Subj: Monthly Harbor Report

Administration:

- Continuing to work with ADEC on Loans
- Continuing to pursue other Grants and loans
- Continuing to pursue past due accounts

Harbor:

- Preparations for Winter

Meetings attended:

- City Council meeting

Copy to:
File

Memorandum

To: Mark Lynch - City Manager

From: Scott Korbe

Subject: Monthly Public Works Report

Date: September 14, 2017

During the past month the Publics Works Department has been focused on the following:

Equipment:

- ▶ Started winter preparation - Chain inspection
- ▶ L150 – Repair radiator

Sanitary Sewer

- ▶ Pumped out Lou Young
- ▶ Sludge monitoring of treatment facility
- ▶ Inspected lift station #4 & 5
- ▶ Met with CRW Engineering to discuss potential solutions to prevent damage to lift station #4 & 5 related to flooding
- ▶ Located infrastructure for ACS Fiber infrastructure
- ▶ Monthly testing and reports

Water

- Valve Maintenance and Inspection
- Removed remaining seasonal water meter
- Located infrastructure for ACS Fiber infrastructure
- Monthly testing and reports

Roads

- ▶ Grade Salmon Run 4 times

Notes from the PW Director This month I have focused my attention on the following areas:

- ▶ PSB – Involved as requested
- ▶ Participated in the following meetings
 - CRW Engineering – Met with to discuss the flooding at the tidal basin and possible solutions to prevent the lift station #4&5 electrical controls from being flooded.
 - Shannon & Wilson – Buckner –
 - Onsite coordination meeting for Borings and Fuel Tank removal
 - Parks and Rec
 - Park Scoping meeting with CRW Engineering and Committee
 - Council Meeting
 - Ports and Harbor
 - Staff Meetings
 - Ports and Harbor
 - ACS – Fiber Optics PSB
 - Discussed design, Location and Expansion to Whittier Customers



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 427-2327 • Fax (907) 472-2404

**PLANNING COMMISSION
SPECIAL MEETING
WEDNESDAY, AUGUST 23, 2017
Homeowners' Lounge, BTI Building
6:00 p.m.**

MINUTES

1. CALL TO ORDER

Charlene Arneson called the meeting to order at 6:01 pm.

2. ROLL CALL

Charlene Arneson, Ed Hedges, Jean Swingle and Dyanna Pratt

3. ADMINISTRATION PRESENT

Mark Lynch, City Manager
Scott Korbe, Public Works Director
Naelene Matsumiya, Office Assistant

PUBLIC PRESENT

Lindsey Vaughan

4. APPROVAL OF REGULAR MEETING AGENDA

MOTION: Dyanna Pratt made a motion to approve the August 23, 2017 Special Meeting Agenda as is.

SECOND: Jean Swingle

DISCUSSION: None

VOTE: Passed Unanimously

5. APPROVAL OF MINUTES

MOTION: Dyanna Pratt made a motion to approve the Regular Meeting Minutes of March 1, 2017, as is.

SECOND: Ed Hedges

DISCUSSION: None

VOTE: Passed Unanimously

6. CORRESPONDENCE

None

7. NEW BUSINESS:

A. Final Plat Approval Submittal – Lots 38-41, First Addition to Port of Whittier

Charlene Arneson introduced the Agenda Item and began to read the checklist to confirm if all documents had been submitted. Charlene explained that some documents were not submitted and that a notary public signature was missing on the certificate. Lindsey Vaughan clarified that the reason for this was because the plat needs to be approved for completion and only then will it be printed on a Mylar with completed documentation. Charlene replied that documents should be brought into the city offices so that it can be filed with the City Clerk. Lindsey reminded the Commission that she wanted to make sure no further changes needed to be made before they finalize the document with its needed signatures. For clarification, the City Manager contacted the City Attorney.

Lindsey explained once more that all that needed to be done tonight was just for the Commission to look over the information to correct any errors on the document before it gets finalized.

Scott Korbe asked Lindsey if this was just a final draft. Lindsey replied that it *was* just a draft so that the City could request changes if changes needed to be made. Scott explained to Charlene that the changes that were requested during the last meeting have been made and that this documents show the changes so that the Commission could look over it and analyze whether or not the changes were accurate to its description.

Scott gave the Commission a brief update on the status saying that, so far, everything complies with the code. He mentioned a new development but doesn't have enough information about it to disclose any updates about it to the Commission.

Charlene thanked Lindsey for her patience and explained that she just wanted everything to be done correctly. Lindsey replied that she understood.

Jack McKenna, an attorney for the city, joined the meeting telephonically to make some clarifications. Lindsey introduced herself and stated that she was unaware that signatures were needed for tonight's meeting. She summarized what she had told the Commission earlier, stating that a draft was submitted tonight for the Commission to review before she submits a Mylar. She continued saying she's never heard of having the draft of the final plat signed because of the chance of changes being made. She concluded that this was more of a review of the final plat, not the final plat itself. Jack McKenna told the Commission that once all the changes have been confirmed and if there are no further changes to be made, the final plat submittal would be when the 60 days would begin to take effect. He observed that it sounded like the Commission was one step before the final plat submittal. He explained, "There need to be two meetings. So once that plat is finalized and you're comfortable signing it, there's one meeting where the Planning Commission looks at it and has certifies that it is complete with all the signatures, and documents accompanying it. That triggers the 60 day period. And then there's that second meeting—there doesn't actually need to be a second meeting because no action would approve it, but there needs to be that initial meeting where the Planning Commission says this is complete and there's an official filing, essentially, and then that starts that 60-day review." Lindsey Vaughan asked, "And then at the end of the 60 days, or beforehand—depending on how it happens—they can just record it with the Anchorage recorder district, right? And there doesn't need to be a meeting then." Jack replied, "Yeah."

Charlene thanked Jack for the clarification.

Jean Swingle said that to her understanding, right now, the Commission is just reviewing the plat before the final. Charlene replied that was correct. Jean commented that if she was a little confused by this, it must be confusing for Lindsey as well and to tell her to read the code doesn't seem fair. Lindsey responded that she has read the code, but she was sure that she wasn't at that point in the process to present signatures at tonight's meeting.

The Commission reviewed the Plat one last time and confirmed that the plat should be ready for final approval once it gets the proper documentation for filing and it's signed and notarized. Lindsey Vaughan

reminded the Commission that if anything else needs to be changed, to please contact her.

MOTION: Dyanna Pratt made a motion to postpone consideration of the proposed plat for Lots 38-41 First Addition to Port of Whittier until Planning Commission meeting on September 6, 2017, and to place it on the agenda for that meeting.

SECOND: Ed Hedges

DISCUSSION: None

VOTE: Unanimous

8. MISCELLANEOUS BUSINESS

None

9. ADJOURNMENT:

MOTION: Ed Hedges made a motion to adjourn the meeting

SECOND: Dyanna Pratt

DISCUSSION: None

VOTE: Unanimous

Charlene Arneson adjourned the meeting at 6:45 pm.

ATTEST:



Naelene Matsumiya
Office Assistant



Dyanna Pratt
Commission Vice Chairperson

Project Fact Sheet

Seward Highway MP 75-90 Road & Bridge Rehabilitation Project

The Alaska Department of Transportation and Public Facilities (DOT&PF), in cooperation with the Federal Highway Administration (FHWA), is planning to rehabilitate approximately 15 miles of the Seward Highway between milepost (MP) 75 near the bottom of Turnagain Pass, and MP 90 near the Girdwood intersection.

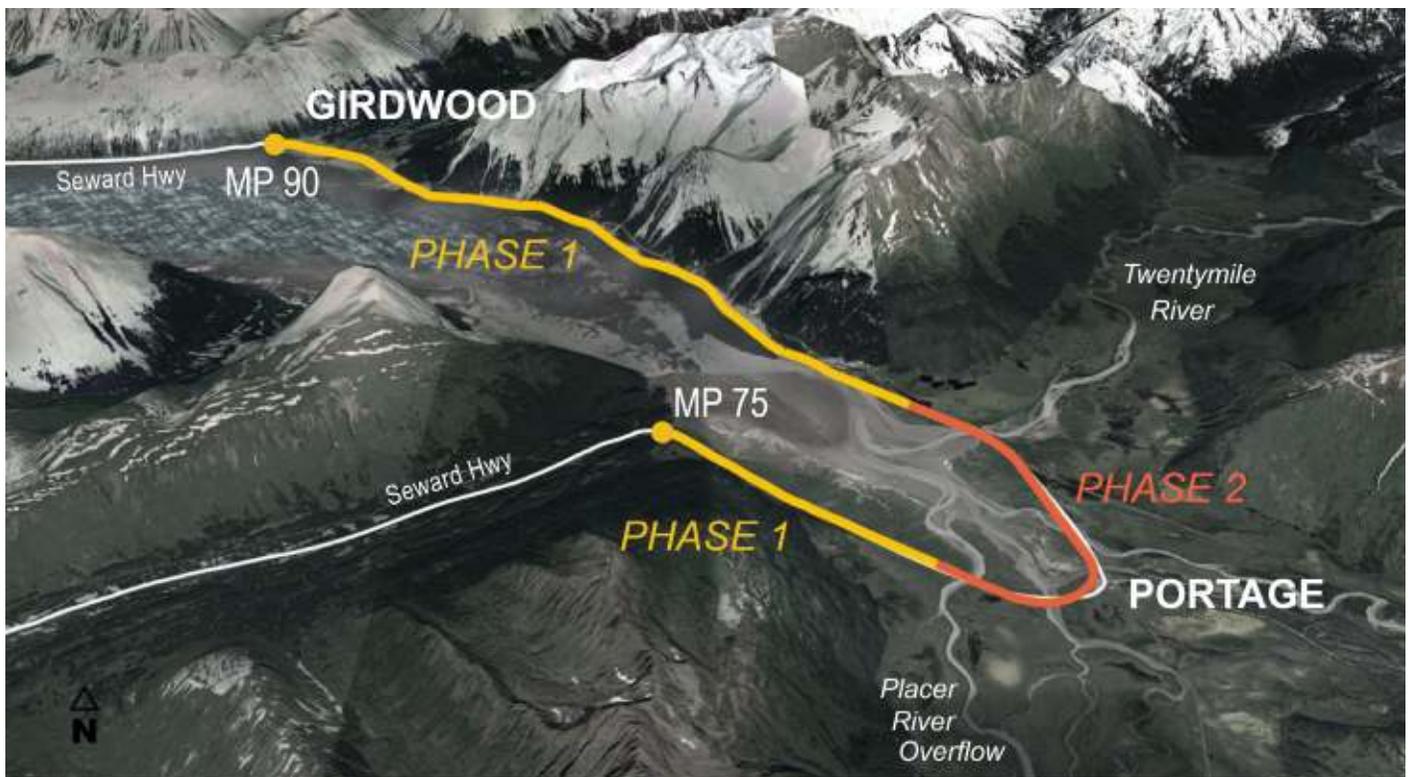
This project aims to increase safe movement of traffic, to extend the service life of the roadway, and to replace eight bridges and rehabilitate a ninth.

DOT&PF proposes to upgrade the highway by:

- » Resurfacing the roadway in the entire 15-mile corridor
- » Straightening curves to improve sight distances
- » Improving the Portage Glacier Road intersection
- » Replacing existing bridges (8 total)
- » Adding 5 miles of new passing lanes
- » Adding new parking areas/improving access for the hooligan fishery
- » Enhancing recreational access at Placer River and Portage Creek
- » Improving drainage
- » Replacing guardrails and culverts as needed

Background:

This project was initiated and its purpose and need were defined in the mid/late 2000s. DOT&PF considered a number of alternatives and design options early in the project development process. The key factors to consider were improving safety, correcting roadway deficiencies, and reducing congestion, especially during peak travel times. DOT&PF oversaw a number of engineering and environmental studies to help further analyze the options. Through that analysis, improvement alternatives were studied, then advanced or dismissed for a variety of reasons including cost, topographical constraints, and environmental concerns.



MEMORANDUM

**TO: WHITTIER CITY COUNCIL
MARK LYNCH, WHITTIER CITY MANAGER**

FROM: HOLLY C. WELLS

**RE: MEMORANDUM REGARDING AMENDMENTS TO WHITTIER CODE
OF ETHICS PROPOSED IN ORDINANCE #05-2017**

CLIENT: CITY OF WHITTIER

FILE NO.: 507456-1

DATE: SEPTEMBER 15, 2017

I. INTRODUCTION

At the last City Council meeting, the Council directed that I review the City of Whittier Code of Ethics and propose changes to that Code for Council's consideration. Consequently, I drafted Ordinance 05-2017 (the "Ordinance"), which amends the Whittier Municipal Code to provide clear obligations, prohibitions, and expectations upon City officials and employees that make sense given Whittier's unique characteristics and culture. This memorandum provides an introduction into the revisions I recommended in the Ordinance and the bases for these revisions.

II. REVISIONS TO THE WHITTIER CODE OF ETHICS

The Whittier Code of Ethics, as a whole, contains general prohibitions against the involvement of City officials and employees in actions in which such officials and employees have financial interests. However, the Code fails to provide clear guidance as to when a disqualifying interest surfaces. The Code also creates disclosure requirements of both officials and "nonsalaried employees" that impose significant disclosure obligations upon such officials and employees. Finally, the Code contains contradicting disclosure requirements for conflicts of interest. In an effort to remedy these concerns, the Ordinance proposes the following revisions:

A. Addition of WMC 2.10.035 "Purpose"

The Current Code of Ethics has very little indication as to the overarching purpose of the Code of Ethics and how it should be interpreted. While most Code provisions do not need a “purpose” section to aid in implementation, ethics provisions, by their very nature, often require fact-intensive interpretation. Therefore, a “purpose” provision clarifying the goal of the governing body, provides much needed assistance in applying the ethics provisions in inevitable ambiguous situations that arise in the ethics arena. To this end, the Ordinance includes a “purpose” section that identifies the importance of maintaining the integrity and credibility of the governing body while recognizing the need for flexibility and common sense application of conflict prohibitions in a community the size of Whittier. The language used is based upon language relied upon in other small Alaskan communities that must balance incentivizing participation in local government with protecting the public from corrupt or self-interested legislative decisions.

B. Addition of WMC 2.10.038 “Definitions”

The addition of a definitions section to the Code of Ethics was perhaps the most significant and necessary revision. Previously, there were numerous references to “financial interests” or “substantial financial interests” but no definitions regarding what such interests entailed. Similarly, there were references to a laundry list of organizations but the list was not exhaustive. Further, there was no direction as to the limitations of who constitutes members of an official’s “immediate family” for analyzing a financial interest. In the definitions section, I attempted to clarify these ambiguities by doing the following:

- Identifying who the Code of Ethics is intended to cover by providing definitions for a “body of the City”, the “City Manager”, and a “City official.”
- Defining “financial interest” to limit such an interest to one held by the person or his or her “immediate family.” The definition of financial interest excludes unpaid affiliations with nonprofit organizations and financial interests that are held by the public at large. While financial interests remain broad under the added definition, such interests trigger only a need to disclose. It is “substantial financial interests” that require abstention from official action.
- Defining “immediate family member” to ensure that the scope made sense within a small community such as Whittier. Many communities include parents in this definition but I did not at this juncture. While doing so is certainly reasonable, the size of Whittier led me to take an initially narrow interpretation of “immediate family” to include only children, spouses, and life partners who cohabitate with an individual.
- Defining “official action” to encompass recommendations, approvals, disapprovals, votes or similar actions. Although Council may want to expand or narrow the scope of an “official action,” it is the City’s best

interest to define this term so officials and employees are not guessing as to the extent of their obligations under the Code of Ethics.

- Defining “substantial financial interest” as a financial interest that results in a gain or loss that is greater than \$5,000 in a single transaction or more than \$10,000 over the course of a year. This definition is fairly high monetary limits and thus Council may want to adopt something smaller. However, I used the higher limits based upon the extremely unique nature of Whittier’s economic market and size.

While the Ordinance includes other definitions, the above are the most significant.

C. Voting Procedures Regarding Conflicts of Interest

The Ordinance also proposes a new and much more precise approach to the voting and disclosure procedures surrounding conflicts of interest. Currently, one Code provision requires the Mayor to determine a conflict of interest while another places that responsibility on Council via a roll call vote. See WMC 2.10.040 as compared to WMC 2.08.030. Similarly, there is no guidance regarding the voting procedures of other boards and commissions in the current Code. As a general principle in municipal law, it is important that members of the governing body are obligated to cast their votes unless there is a reason for not doing so. In other words, unless there is a genuine interest prohibited by law, the Council members are compelled to govern so City governance does not stall. This type of requirement prevents the unfortunate situation where Council members evade their voting responsibilities on politically charged or unpopular matters. Thus, the Ordinance proposes provisions clarifying that Council members may only abstain from participating when a member has a substantial financial interest as determined by the Council as a body.

That said, appointees to commissions and boards have not been elected by residents to govern. They are appointees who can be removed and replaced by City administration in the event of a failure to perform their duties. Therefore, many communities aim to preserve an appointee’s ability to abstain from voting on a matter when that member believes he or she has a disqualifying interest. These principles of municipal governance are reflected in the proposed changes to the voting procedures under the Code, which now provides different voting processes for Council and for boards/commissions but places these processes in the Code of Ethics so there is no confusion regarding which voting procedure applies.

Specifically, the Ordinance amends WMC 2.10.040 to provide the conflict of interest voting procedure for Council members, which requires disclosure if there is a financial interest and disqualifying if there is a *substantial* financial interest. It compels City Council members to otherwise participate and vote. WMC 2.10.045 governs determination of conflicts of interest by commission and board members and places the initial determination of whether or conflict exists in the hands of the presiding officer. The commission or board then has the power to overturn the presiding officer’s decision

with a majority vote. Any member of a board or commission may voluntarily excuse his or her self from participating in a vote in which he or she has, in his or her opinion, a substantial financial interest.

The Ordinance also adds a general declaration requirement for city officers or employees to disclose a conflict of interest or an official action in which he or she has a substantial financial interest. This addition was designed to ensure that the prohibitions and requirements are located in one location, creating a user-friendly Code.

Finally, conflicting provisions or provisions that contained superfluous language that sounded substantial but could not be easily applied by the employees or officials subject to the Code restrictions were removed (see WMC 2.70.025) or amended (WMC 2.08.230 was amended to remove the provisions regarding the presiding officer's determination of Council member conflicts as that directly contradicted the process provided for in the Code of Ethics).

D. Disclosure Statement Requirement Changes

Another significant change reflected in the Ordinance is the implementation of an annual disclosure statement requirement that applies only to City officials and the City Manager. The current Code requires that all "nonsalaried officers" file disclosure statements and that these statements be updated within ten days after a triggering interest. This process is arguably overreaching, onerous and vague. Under the current Code, a City "officer or official" must file a statement disclosing "any direct or indirect interest in any firm, corporation, association or enterprise which by reason of such membership on a City board, committee, or commission benefits him or her in a manner different from that available to the public generally." WMC 2.10.080. This requirement places immense responsibility on the filing officer or official to determine whether or not 1) an interest exists; 2) that interest is different from the general public; and 3) the entity at issue falls within the laundry list of entities named. The Code goes on to require that the officer and officials supplement their disclosures within 10 days of acquiring or becoming aware of an interest subject to disclosure.

In an effort to create a disclosure process that protects the City but also recognizes the difficulties of having a rolling disclosure requirement, the Ordinance proposes a disclosure statement that incorporates the disclosure requirements under the Alaska Public Officers Commission requirements but does so in a preexisting form that we will draft and supply to the City Clerk. This form will be required as part of the declaration of candidacy and will be subject to updates by the City official annually.

Additionally, the disclosure requirements were narrowed to apply only to City officials and the City Manager. City employees traditionally have more flexibility regarding their dealings with the City and should not have to file annual disclosure statements. That said, employees continue to be responsible for the disclosure of substantial financial interests and the abstention from dealings that adversely impact the City interests as

identified under the Code. Thus, the protections against employee “self-dealing” are preserved elsewhere in the Code.

The disclosure statement provision was drafted to provide a process and approach I find effective. There are many changes that may be necessary to reflect the policy goals of the City that have no legal implication. I recommend Council review this section closely and adopt a disclosure statement obligation that makes the most sense for Whittier.

E. Prohibited Acts Revisions

The Ordinance also makes significant changes to the prohibited acts under the Code of Ethics. The purpose of these revisions are to ensure that any acts that are “prohibited” are clearly identifiable but the official or employee prohibited from doing them and that the prohibitions are not so onerous as to discourage participation in local government but Whittier’s residents. The most substantial changes to the prohibited acts are as follows:

- Requires that gifts, retainers or favors be prohibited only when they constitute a “substantial financial interest” and the receiver has knowledge that the gift, retainer or favor is given to obtain special consideration in City action. This provision does not negate the official or employee’s responsibility to disclose substantial financial interests in City action and thus the other provisions of the Code provide further protection. The Current Code prohibits gifts, retainers or favors when the officer or employee had knowledge that such gifts were intended to garner favor regardless of the amount or nature of the interest.
- Removes the Code’s prohibition against interests, “whether personally or through immediate family or close relatives” and prohibits, instead, substantial financial interests and efforts to influence the City’s selection of entities with which it does business.
- Removes the Code’s prohibition against appearing before a City body, whether on an officer or employee’s own behalf or on behalf of a client. These provisions and prohibitions ultimately prohibit the personal involvement of an official and/or employee in the government procedures afforded all Whittier visitors and residents. To the extent a substantial financial interest or other disqualifying interest exists, the Code of Ethics, as revised in the Ordinance, should provide the proper protections. Thus, these additional prohibitions serve only to unnecessarily restrict government involvement.
- Maintains the prohibitions against simultaneously serving as a City employee and running for election as well as the prohibition against serving as a Council member while either being employed by the City or having a substantial or controlling interest in an entity doing business with the City. These provisions

are significant substantive limitations that may or may not reflect the intent of the Council. However, the removal of such provisions is based purely in policy and not law and thus they have been preserved.

III. CONCLUSION

In conclusion, the Ordinance is designed to provide Council and the City as a whole with a clear and user-friendly Code of Ethics that can be applied by the public and public officials alike with ease. There are, however, many policy decisions regarding the prohibitions and obligations that the Council may or may not want to impose and thus I encourage Council to review the Ordinance carefully.

**CITY OF WHITTIER, ALASKA
ORDINANCE #05-2017**

AN ORDINANCE OF THE CITY OF WHITTIER AMENDING WHITTIER MUNICIPAL CODE CHAPTER 2.10 ENTITLED “CODE OF ETHICS FOR OFFICERS AND EMPLOYERS” TO CLARIFY WHAT CONSTITUTES A “SUBSTANTIAL FINANCIAL INTEREST,” LIMIT DISCLOSURES OF POTENTIAL CONFLICTS OF INTEREST TO SUBSTANTIAL FINANCIAL INTERESTS, INSTITUTE AN ANNUAL DISCLOSURE STATEMENT PROCESS, AND CLARIFY GENERAL PROHIBITIONS AGAINST CITY OFFICIAL AND EMPLOYEE CONDUCT AND DISCLOSURE OBLIGATIONS, REPEALING SECTION 2.70.025 ENTITLED “BEHAVIOR GENERALLY” AND AMENDING SECTION 2.08.230 ENTITLED “RULES - VOTING” TO REMOVE REDUNDANT AND CONTRADICTORY VOTING PROCEDURES REGARDING CONFLICTS OF INTEREST

WHEREAS, Whittier’s Code of Ethics provides detailed prohibitions regarding the conduct of City Officials, the City Manager, and City employees but the provisions are unclear and difficult to follow; and

WHEREAS, the City of Whittier is a small community where there are daily interactions between many of the business owners and City of Whittier officials that require conflict of interest provisions that protect the City from conflicts of interest and corrupt acts while permitting City officials to conduct business and actively participate in the Whittier community; and

WHEREAS, it is in the City’s best interest to amend the Code of Ethics to adopt clear definitions and realistic conflict of interest prohibitions;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whittier,

Section 1. Chapter 2.10 entitled “Code of Ethics for Officers and Employees” is amended to add Section 2.10.035 entitled “Purpose” to read as follows:

2.10.035 Purpose.

A. The proper functioning of democratic government requires ethical behavior by public officials. Ethics involves the commitment to take individual responsibility in creating a government that has the trust and respect of its citizens. The purpose of this chapter is to set reasonable standards of conduct for City officials and the City Manager so that the public may be assured that its trust in such persons is well placed and that the City officials and the City Manager themselves are aware of the standards of conduct demanded.

B. Whittier is a small community, with a limited number of people interested in serving as community leaders. To this end, it is not the intent of this chapter to set unreasonable barriers that deter aspirants from public service.

C. This chapter also defines conflict of interest, the standards stating when and to whom it applies, and the procedures for declaration and the proper action of the body when possible conflicts arise.

D. This chapter is also intended to establish a process which will ensure that complaints or inquiries regarding the conduct of City officials and the City Manager are resolved in the shortest practicable time in order to protect the rights of the public at large and the rights of the City and the City Manager.

E. The City Council intends this code to be interpreted to promote fair, honest, and impartial dealings with members of the public, to ensure proper use of City resources, and to avoid conflicts of interest.

F. This chapter does not create or prevent a private cause of action against any person, City official, or the City Manager.

Section 2. Chapter 2.10 entitled “Code of Ethics for Officers and Employees” is amended to add Section 2.10.038 entitled “Definitions” to read as follows:

2.10.038 Definitions.

As used in this chapter and unless otherwise provided or the context otherwise requires, the following terms shall have the meanings set forth in this section:

“Body of the City” means the City Council and the boards, commissions, committees and task forces appointed by the City Council or the Mayor.

“City Manager” means the person who is hired by the City Council to manage the City of Whittier or the Assistant City Manager when serving as the acting City Manager.

“City official” means a person who holds elective office under the ordinances of the City, or who is a member of a board or commission whose appointment is subject to confirmation by the City Council.

“Financial interest” means:

1. An interest currently held by that person or an immediate family member including:

a. Involvement or ownership in a business; or

b. Property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person receives a financial benefit; or

c. An affiliation with an organization in which the person holds a position of management, or is an officer, director, trustee, employee in the organization.

2. Financial interest does not include:

a. Affiliation as unpaid volunteer with a legally recognized nonprofit organization; or

b. Financial interests of a type which are generally possessed in common with all other citizens or a large class of citizens.

“Gratuity” means a thing having value given voluntarily or beyond lawful obligation.

“Hired consultants and contractors” means a person or organization hired by the City as an independent contractor and not as an employee.

“Immediate family member” means:

1. The spouse of the person;

2. A life partner or person cohabiting with the person; or

3. A child, including a stepchild and an adoptive child, of the person.

“Official action” means a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction (when it is the equivalent of decision to take negative action), made while serving in the capacity of City official or City Manager, whether such action or inaction is administrative, legislative, quasi-judicial, advisory, or otherwise.

“Organization” means any business, corporation, partnership, firm, company, trust, association, or other entity, whether organized for profit or nonprofit.

“Person” means a natural person or an organization.

“Subject of the action” means anything under consideration for official action including but not limited to:

1. Appointments to any office or position of employment;

2. Any contract, project, property, or transaction subject to the action;

3. A platting, vacation or subdivision action;

4. An application for or other consideration of a license, permit, appeal, approval, exception, variance, or other entitlement;

5. A rezoning; and

6. Appeals and quasi-judicial proceedings.

“Substantial financial interest” means a financial interest that would result in a pecuniary gain or loss exceeding \$5,000 in a single transaction or more than \$10,000 in the aggregate in 12 consecutive months.

Section 3. Section 2.10.040 entitled “Council voting” is amended to read as follows:

2.10.040 ~~Council voting~~ **Conflicts of interest-City Council members-**.

~~A. All members of the Council shall vote, unless a Council member has a direct or indirect financial interest in the motion. Council members shall disclose a financial interest in a motion before the Council votes on that motion.~~

A. Immediately after the Council approves the agenda at a regular or special meeting, each Council member shall declare any financial interest in a matter appearing on the agenda. Any Council member **or member of the public present at the meeting** may question whether another Council member has a financial interest in a matter appearing on the agenda, ~~and should be excused from participating in the matter.~~

B. After a Council member discloses a financial interest **or another Council member or member of the public present at the meeting questions another Council member’s financial interest in a matter**, the Council shall determine by roll call vote if the **Council member has a substantial financial interest in the matter.** ~~Council member’s vote is a conflict of interest. If another Council member or someone from the audience questions or challenges a member’s vote, Council shall act upon this with a roll call vote excluding the questioned member from that vote.~~

C. If the Council determines that a Council member has a substantial financial interest in a matter, the Council member shall not participate in the discussion of the matter or vote on the matter.

D. If the Mayor is ruled to have a substantial financial interest in a matter before the Council, the Mayor shall yield the chair to the vice mayor during the Council discussion or vote on the matter, and shall not vote on or participate in discussion of the matter.

Section 4. Chapter 2.10 entitled “Code of Ethics for Officers and Employees” is amended to add Section 2.10.045 entitled “Conflicts of interest-Board and Commission members” to read as follows:

2.10.045 Conflicts of interest-Board and commission members.

A. Immediately after a City board or commission approves the agenda at a regular or special meeting, each member having a financial interest in a matter appearing on the agenda shall declare the financial interest. Any member may question whether another member has a financial interest in a matter appearing on the agenda and should be excused from discussing and voting on the matter.

B. The presiding officer shall determine if the member alleged to have the financial interest in the matter has a substantial financial interest in the matter. If the presiding officer determines the member has a substantial financial interest in the matter, the presiding officer shall prohibit the member from voting on or participating in any discussion on the matter.

C. Any member of a City board or commission may disclose a financial interest in a matter and choose to excuse himself or herself from voting on and participating in discussion regarding that matter.

D. The decision of the presiding officer on whether a board or commission member should be excused due to a substantial financial interest may be overridden by a majority vote of the board or commission.

Section 5. Chapter 2.10 entitled “Code of Ethics for Officers and Employees” is amended to add Section 2.10.048 entitled “Conflicts of interest-Other city officers and employers” to read as follows:

2.10.048 - Conflicts of interest—Other city officers and employees.

A city officer or employee, other than a council member or a member of a city board or commission, may not participate in an official action in which the officer or employee has a substantial financial interest.

Section 6. Section 2.10.080 entitled “Filing of statements by nonsalaried officers” is amended to read as follows:

2.10.080 Filing of statements by **City officials**~~nonsalaried officers~~.

~~Every nonsalaried elected or appointed City officer or official shall, upon assuming his or her duties, file with the City Clerk a written statement disclosing any direct or indirect interest in any firm, corporation, association or enterprise which by reason of such membership on a City board, committee, or commission benefits him or her in a manner different from that available to the public generally. Every official or officer subject to this section shall supplement his or her written disclosure statement within 10 days of acquiring or becoming aware of any interest subject to disclosure under this section.~~

A. City officials and the City Manager must annually file the following financial interest disclosure on forms prepared by the City Clerk:

1. For each City official and the City Manager the information that is required on the following selected schedules from the Alaska Public Offices Commission Public Official Financial Disclosure Statement: Schedules B (business interests), C (real property interests/rent to own), E (the portion relating to natural resource leases only), F (government contracts and leases) and G (close economic associations); and

2. For each elected City official a list of each business in which an immediate family member is a partner, proprietor or employee to the extent not provided in response to subsection (a)(1) of this section.

b. The financial interest disclosure must be filed by November 1st each year. A newly appointed official must file a statement within 30 days after taking office. Each candidate for elected City office must file a disclosure statement at the time he or she files a declaration of candidacy, except an incumbent seeking reelection with a current disclosure statement on file. Refusal or failure of a candidate to file the required disclosure statement before the end of the time period for filing declarations of candidacy shall require that the candidate's declaration of candidacy be rejected and the candidate disqualified.

c. The disclosure statement must be true, correct and complete and shall be signed under oath or affirmation, or certified to be true under penalty of perjury.

d. The disclosure statement shall be filed with the City Clerk and shall be open to public inspection and copying at the office of the City Clerk. The disclosure statement will not be sent to the Alaska Public Offices Commission.

Section 7. Chapter 2.10.130 entitled "Prohibited acts" is amended to read as follows:

2.10.130 Prohibited acts.

A. No City officer or employee shall engage in any act in conflict with the performance of his official duties and shall disqualify himself from participating in any official action in which he has a substantial financial interest.

B. The following prohibited acts are deemed to be in conflict with the performance of an officer or employee's official duties. No officer or employee shall:

1. Fail to disclose that he possesses, ~~directly or indirectly,~~ a ~~substantial or controlling~~ **financial** interest in **an organization** ~~any corporation, firm, association or enterprise doing business with the City;~~

2. **Fail to disclose a substantial financial interest as required under this chapter.** ~~Have a financial or other private interest in any legislation or other matter coming before the Council, and if a Councilman, fail to disclose such interest on the records of the Council or disqualify himself from voting on such matter by stating the nature and extent of such interest, or if an officer or employee, participate in discussion with or give an official opinion to the Council as to any such matter and fail to disclose such interest on the records of the Council;~~

3. Receive or acquire ~~any~~ **substantial** financial interest in any sale to or purchase from the City of any **goods or services** ~~service or property with knowledge at the time of receiving or acquiring such interest that the City intends to purchase or sell such~~ **goods or services** ~~property or service;~~

4. Accept any retainer, gift, or favor from any **person or organization** ~~person, firm, corporation, association or enterprise having dealings with the City~~ **when that retainer, gift or favor constitutes a substantial financial interest and when the City official or employee has knowledge** ~~with the knowledge that such retainer, gift or favor is given with the intent to obtain special consideration as to any action by such officer or employee in his official capacity;~~ ~~provided, however, that any such officer or employee who is a candidate for public office may accept otherwise lawful campaign contributions and services in connection with any such campaign;~~

5. Have a **substantial** financial interest, ~~whether personally or through immediate family or close relatives,~~ in **an organization** ~~a firm, corporation, association or enterprise doing business with the City and influence or attempt to influence~~ **the City's** ~~the selection of, or conduct of business with such~~ **organization** ~~firm, corporation, association or enterprise by the City;~~

6. ~~Engage in or accept private employment or render service for private industry or other governmental entities which is incompatible with the proper discharge of official duties or impairs his independence of judgment or action in the performance of such official duties;~~

7. ~~Appear on behalf of a private interest before any City agency, board or commission or represent a private interest in any action or proceeding against the interest of the City in~~

~~any litigation to which the City is a party; provided, that this subsection shall not apply to:~~

~~a. Persons receiving no compensation from the City;~~

~~b. Any member of the Council appearing before governmental agencies on behalf of or as a representative of constituents in the course of his official duties or performing public or civic obligations without additional compensation therefor, or~~

~~c. Any officer or employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest; provided such proprietary interest is fully disclosed and the officer or employee does not act or attempt to act in any official capacity with respect to such matter;~~

~~8. Use, request, or permit the use of City owned vehicles, equipment, materials or property for personal use or profit unless such use is available to the public generally; provided, that this subsection shall not apply to the use of City owned vehicles, equipment, materials or property provided to such officer or employee in accordance with municipal policy for the conduct of official City business;~~

~~9. As to any matter or proceeding coming before a City agency, board or commission of which he is a member, fail to disqualify himself from acting therein when such matter or proceeding involves any person who is or has been a client of his or his firm or partnership within the 12-month period immediately preceding the date of such action;~~

~~610. Disclose confidential information concerning the property, government, or affairs of the governmental body by which he **or she** is employed **or appointed** without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;~~

~~711. Serve as a member of the City Council and have either (a) paid employment with the City other than payment for such Council membership or (b) a substantial or controlling interest in a corporation, firm, association or enterprise doing business with the City;~~

~~812. Simultaneously be a paid City employee and a candidate for election to the City Council or Mayor. Before a paid employee may file a petition for election, he or she must first terminate such employment with the City. This provision is not intended to prohibit payment by the City of a salary to the Mayor.;~~

~~13. Be employed or serve in violation of WMC 2.24.132 or 2.32.705.~~

Section 7. Section 2.70.025 entitled "Behavior generally" is repealed.

Section 8. Section 2.08.230 entitled “Rules - Voting” is amended to read as follows:

2.08.230 Rules – Voting.

A. The presiding officer shall declare all votes, but if any member doubts a vote, the presiding officer, without further debate upon the question, shall request the members voting in the affirmative and negative respectively to so indicate, and he or she shall declare the result.

B. The vote upon all matters considered by the Council shall be taken by yes or no votes which shall be entered upon the record, except that if the vote is unanimous, it shall be necessary only to so state.

C. Every member who shall be present when a question is put, where he or she is not disqualified under this code by personal interest, shall vote, ~~unless the Council for special reason excuses him. Applications to be so excused must be made before the vote, and shall be decided without debate.~~

D. Anything to the contrary in these rules notwithstanding, in all cases where an extraordinary majority is not required, and when no motion is before the Council, the chairman may, in lieu of calling for or waiting a motion to be made, put the question in the following form: “Without objection, it will be so ordered.” If no objection is heard, he shall announce: “It is so ordered,” which will have the same effect as if a motion is reasonable expressed when the question is put, the chairman shall not proceed further under this rule, but instead shall call for a motion, which motion shall be handled in the regular manner.

~~E. No member of the Council may discuss or vote on any question in which the member has a direct or indirect substantial financial interest. Direct or indirect financial interest shall be disclosed prior to the beginning of debate on the question for a ruling on a request from the member with the financial interest to be excused from discussion and a vote.~~

~~1. The presiding officer shall rule on a request by a member of the governing body to be excused from vote;~~

~~2. The decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the Council. If there are not at least four Council members in attendance who are qualified to vote, the matter shall be tabled until the next regular or special meeting at which four Council members qualified to vote on the matter are in attendance; and~~

~~3. A municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.~~

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council
on this ____th day of _____, 2017.

Daniel Blair
MAYOR

ATTEST:

Naelene Matsumiya
ACTING CITY CLERK

Ayes:
Nays:
Absent:
Abstain:



THE CITY OF WHITTIER

Gateway to Western Prince William Sound

P.O. Box 608 • Whittier, Alaska 99693 • (907) 472-2327 • Fax (907) 472-2404

September 15, 2017

From: City Manager

To: City Council

Memo re: WERFA Funds

All,

It came to my attention that the people controlling WERFA funds were not willing to transfer the remaining funds to the City's EMS to be used for a chest compression machine. They sent word to me via the Mayor that they would only allow the money to pass to the Student Council for their activity fund, and to the Whittier Museum Association. Obviously it is better to allow the money to return to the community, rather than have it given to an entity outside of Whittier. So, a new resolution is in the packet to accommodate their desire for the funds to go to the Whittier Student Council and Whittier Museum Association. The Resolution is simply saying the transfer to these organizations is acceptable to the City. The City is not a party to this transfer of funds.

Thanks,

Mark Lynch

**CITY OF WHITTIER, ALASKA
RESOLUTION #20-2017**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA
APPROVING OF THE DISTRIBUTION OF APPROXIMATELY \$14,000 IN FUNDS
FROM THE WHITTIER EMERGENCY RESPONSE AND FIRE ASSOCIATION.**

WHEREAS, the Whittier Emergency Response and Fire Association (“WERFA”) was a non-profit corporation created on April 18, 2001, pursuant to AS 10.20, by a group of citizens to provide emergency response and fire protection capabilities to and within the Anton Anderson Memorial Tunnel during vehicular operating hours;

WHEREAS, WERFA received its funding through the City of Whittier, Alaska (“City”);

WHEREAS, on June 24, 2004, WERFA was involuntarily dissolved/revoked by the State of Alaska Commission of Community and Economic Development;

WHEREAS, WERFA has expressed an interest in dispersing its remaining approximately \$14,000 in funds to the Whittier Museum Association and the Whittier Student Council;

WHEREAS, AS 10.20.295 permits the assets of an Alaskan nonprofit corporation in the process of dissolution to be distributed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation;

WHEREAS, the Whittier Museum Association and the Whittier Student Council and qualify under AS 10.20.295 to accept the WERFA funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Whittier that the City approves of equal distribution of remaining funds to Whittier Museum Association and The Whittier Student Council.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 19th day of September, 2017.

ATTEST:

Naelene Matsumiya
ACTING CITY CLERK

Daniel Blair
MAYOR

Ayes:
Nays:
Absent:
Abstain:

The following is the current code section pertaining to sale of real property by the City.

Article II. Real Property Sales by the City

3.36.110 Power to dispose of real property.

The City may sell, convey, exchange, transfer, donate, dedicate, direct or assign to use, or otherwise dispose of City-owned real property by any lawful means or conveyances. [Ord. 508-06 § 3, 2006].

3.36.120 Sale or disposal – Form.

The City may sell or dispose of real property by warranty or quitclaim deed, easement, grant, permit, license, deed of trust, exchange, mortgage, contract of sale of real property, plat dedication, lease, tax deed, vacation, or any other lawful method or mode of conveyance or grant. Any instrument requiring execution by the City shall be signed by the City Manager and attested by the City Clerk or notarized by any notary commissioned in Alaska. [Ord. 508-06 § 3, 2006].

3.36.130 Sale or disposal – Rights and powers.

The City may sell or dispose of any interest in real property, including property acquired or held for or dedicated to a public use, except as outlined in WMC 3.36.150, when in the judgment of the City Council it is no longer required for municipal purposes. [Ord. 508-06 § 3, 2006].

3.36.140 Public sale.

Unless otherwise provided in this chapter, the City shall dispose of any interest in real property no longer required for municipal purposes through public bidding. [Ord. 508-06 § 3, 2006].

3.36.150 Exceptions to public bidding.

Public bidding is not required for the following disposals:

A. Grants for Federal and State Programs. The Council may dispose of an interest in real property to the United States, the State of Alaska, another local government, or an agency of any of these governments, for a consideration agreed upon between the City and the grantee without public bidding if the disposal is in the public interest.

B. Change of Use. Real property acquired or purchased for one City purpose may be appropriated, transferred, assigned or directed without public sale to another City purpose, whenever the City Council determines that the purpose for which the property was acquired or purchased no longer exists, or the property is no longer used or useful for the initial purpose for which the property was acquired, or if the City Council determines that using the property for a different purpose is in the public interest.

C. Release of Easements. The City Manager may, at the direction of the City Council, convey, quitclaim, release, cancel, vacate or otherwise relinquish any real property easement, permit or license the City may have or hold for the purpose of installing, constructing, or maintaining a public improvement, whenever the interest is no longer used or useful for that purpose.

D. Vacation of Rights-of-Way. Vacation of any right-of-way shall be made without public bidding.

E. Property Exchanges. The Council may approve after public notice the conveyance and exchange of a parcel of City property for a parcel of property owned by another person subject to such conditions as Council may impose on the exchange, whenever in the judgment of the City Council it is advantageous to the City to make the property exchange.

F. Tidelands and Submerged Lands. Interests of the City in tidelands or submerged lands may be disposed of in accordance with the City's regulations governing such disposals. [Ord. 508-06 § 3, 2006].

3.36.160 Disposal procedures.

Any interest in real property of the City that is required by this chapter to be disposed of through a public sale shall be disposed of as follows:

A. Appraisal. An estimated value of the property by a qualified appraiser shall be made. Any appraisals must be done within one year of the proposed disposal.

B. Planning Commission Review. The parcels of land to be disposed of shall be reviewed by the Planning Commission which shall make recommendations to the City Manager concerning desirable uses of the property, including projected need, if any, of the land for present or future recreational or other public use. Such recommendation shall be by resolution after public hearing.

C. City Manager Recommendation. After review of the Planning Commission's recommendations, the City Manager shall make a written recommendation to the Council. If the City Manager believes it is in the best interests of the City to do so, such recommendation shall set out the development of the property, and the estimated value of the property as made by a qualified appraiser and the recommended terms and conditions of sale.

D. Civil Action. After receipt of the recommendations, the Council may, by resolution, direct the disposal of an interest of the City in the real property under such terms and conditions as it requires.

E. Notice. Notice of the proposed disposal shall be given by whatever means are considered reasonable by the City Manager. The notice must contain a brief description of the land, its area and general location, proposed use, term, computed annual minimum rental or minimum offer, limitations, if any and time and place set for the auction or bid open if applicable.

F. Land Valued at \$100,000 or More. Any disposal of an interest in real property of the City valued at \$100,000 or more shall be approved by ordinance instead of by resolution. [Ord. 508-06 § 3, 2006].

3.36.170 Minimum acceptable offer.

Any disposal of a fee simple interest in real property disposed of pursuant to this chapter shall be for the appraised value of the interest being disposed of unless:

- A. The Council finds that a particular disposition for less than appraised value shall be in the public interest. Public interest for the purposes of this subsection shall include a public or quasi-public purpose and use. Public interest shall not include a purpose to return property to private ownership, or to return property to the tax rolls, or to make property available for a desirable private enterprise or development, or other similar purposes; or
- B. The real property was acquired under a tax foreclosure in which case the Council, by resolution, may reduce the minimum acceptable offer to an amount not less than the sum of all back taxes, penalties and interest due or which would have been due if the property had remained in private ownership up to the date of sale, plus all cost of foreclosure, sale, and development incurred by the City; or
- C. The interest being disposed of is an interest in tide or submerged land and the disposal is made in accordance with the City Manager's regulations governing disposal of tidelands. [Ord. 508-06 § 3, 2006].

3.36.180 Conditions of sale.

If the interest of the City in any real property is being disposed of through public bidding, the Council in the resolution or ordinance authorizing the disposal shall set forth the terms and conditions of the disposal. The Council may reserve the right to reject any and all bids received if the highest bid is below the appraised value and costs of sale or is not made by a responsible bidder. The City Council shall approve any purchase agreement prior to its execution by the City. The approval of any disposal through public bidding authorizes the City Manager to take all steps and execute all instruments to complete the disposal. [Ord. 508-06 § 3, 2006].

3.36.190 Sale or lease to benefit City function.

Notwithstanding requirements of this title relating to terms, conditions, procedures or other requirements for the sale, lease or other disposal of City real property or an interest therein, including the financing of such sales, upon a determination by the Council that a particular use or class of uses of a parcel would benefit or complement a municipal function, the Council may, by resolution, authorize a disposal of municipal real property by negotiation or other means the Council determines will be in the interest of the City. The resolution must include:

- A. Reference to this section;
- B. The identity of the property to be disposed of;
- C. The municipal function that will be benefited or complemented;
- D. The use or class of uses to which the parcel or parcels may be put that will benefit or complement the municipal function;

- E. The procedures for the disposal of the parcel or parcels;
- F. The minimum terms of the disposal, if any; and
- G. Other terms or conditions as may be appropriate.

The actual terms of a sale, lease or other disposal of real property under this section must be approved by the Council before the disposal may become effective. [Ord. 508-06 § 3, 2006].

3.36.200 Reservation of easements and rights-of-way.

The City may reserve any easement and right-of-way to be used for public improvements and purposes before selling or disposing of City-owned real property. A lease of tide and submerged lands shall include such reservation of rights-of-way as are necessary to provide reasonable access to public waters. [Ord. 508-06 § 3, 2006].

3.36.210 Tax foreclosure land.

Real property acquired by tax foreclosure may be disposed of in the manner provided in AS 29.45.290 through 29.45.500. [Ord. 508-06 § 3, 2006].

Date: September 15, 2017

To: City of Whittier Mayor and City Council

Thru: Mark Lynch, City Manager

From: Kristie Smithers, City Consultant

RE: Confirmation of Election Officials

For the upcoming City Election of October 3, 2017, the following persons are willing to serve as City Election Officials:

- Precinct Polling Place
 - Terry Bender, Chair
 - Brandelyn Bender
 - Elizabeth Cox
 - Jean Swingle

- Absentee Voting Officials
 - Naelene Matsumiya, Acting City Clerk
 - Dyanna Pratt, Executive Assistant
 - Kristie Smithers, City Consultant

Please confirm the election officials stated above as required by WMC 2.06.120.

Thank you.